

## **PUBLIC POLICIES FOR CHILDREN AND YOUNG PEOPLE IN BRAZIL: VIEWPOINTS FROM THE TWO GUARDIANSHIP COUNCILS IN THE CITY OF NOVO HAMBURGO, RS, BRAZIL**

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### Abstract

*This article sets out to discuss public policies for children and young people in Brazil, focusing on the Guardianship Councils in the city of Novo Hamburgo, Regions 1 and 2. This choice was made due to the fact that the guardianship council is one of the main institutions that was created through the Statute of the Child and Adolescent (ECA). Based on the question: “How are public policies for children and young people implemented in the selected Guardianship Councils?”, the aim is to reveal the relationship between public policies and the ECA, demonstrating what the guardianship councils are and analyzing how the Guardianship Councils of Novo Hamburgo discuss public policies in everyday life and how they relate to other institutions responsible for implementing public policies for children and young people. The starting point is taken from a literature review, an ethnographic exercise conducted at the headquarters of the two Guardianship Councils and non-directive interviews with councilors. Throughout these experiences, although public policies are understood as being fundamental for the action of these Councils, they nonetheless do not have the necessary force to guarantee the rights stipulated by the ECA.*

### Keywords

*Guardianship Council; Childhood; Young People; Novo Hamburgo; Public Policies.*

## **POLÍTICAS PÚBLICAS INFANTOJUVENIS NO BRASIL: OLHARES A PARTIR DOS DOIS CONSELHOS TUTELARES DA CIDADE DE NOVO HAMBURGO, RS**

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### Resumo

*Neste artigo são abordadas as políticas públicas infantojuvenis brasileiras com foco nos Conselhos Tutelares de Novo Hamburgo, Região 1 e 2. Essa escolha deve-se ao fato de o conselho tutelar ser uma das principais instituições criadas pelo Estatuto da Criança e do Adolescente (ECA). Com base na questão “Como se efetivam as políticas públicas para crianças e jovens nos Conselhos Tutelares selecionados?”, objetiva-se desvendar a relação entre as políticas públicas e o ECA, apontar o que são conselhos tutelares e analisar como os Conselhos Tutelares de Novo Hamburgo discutem as políticas públicas no cotidiano e como se relacionam com as demais instituições responsáveis por implementar políticas públicas para a área infantojuvenil. Parte-se de uma revisão da literatura, de um exercício etnográfico realizado na sede dos dois Conselhos Tutelares no município escolhido e de entrevistas não diretas com conselheiras. Nessas vivências, as políticas públicas são entendidas como fundamentais para a ação dos Conselhos, mas não se revestem da força necessária para garantir os direitos estipulados pelo ECA.*

### Palavras-chave

*Conselho Tutelar; Infâncias; Juventudes; Novo Hamburgo; Políticas Públicas.*

# **PUBLIC POLICIES FOR CHILDREN AND YOUNG PEOPLE IN BRAZIL: VIEWPOINTS FROM THE TWO GUARDIANSHIP COUNCILS IN THE CITY OF NOVO HAMBURGO, RS, BRAZIL<sup>1</sup>**

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## Introduction

The 1988 Constitution (BRASIL, 1988) paved the way for the enactment, in July 1990, of the Statute of the Child and Adolescent (ECA)<sup>2</sup>, through Law N° 8.069 (BRASIL, 1990), which was a major turning point in Brazilian legislation. One of the main points of the ECA is the municipalization of the support services, with a determination to create two new institutions in each Brazilian city: the Municipal Council for the Rights of Children and Adolescents (CMDCA) and the Guardianship Councils (CT).

It is within this context, in which the State is undergoing a period of constitutional change, of attaining new rights and new institutional processes, that the present study has been inserted. The subject discussed herein is the policies for children and young people in Brazil and focusses on the Novo Hamburgo Guardianship Council - Region 1, and the Novo Hamburgo Guardianship Council, Region 2.

The impetus to examine the Guardianship Councils in Novo Hamburgo stems from the fact that a guardianship council, the creation of which was stipulated by the ECA, is one of the main institutions of the care network for children and young people. It is referred to by several of the guardianship counselors as being the “attendance starting point”. These institutions are central to the municipalization

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1. This study is the result of discussions that took place during the preparations for the dissertation of the author Bárbara Birk de Mello, defended and approved in February 2022.

2. All acronyms used through this article have remained in the Brazilian Portuguese form.

of attending children and young people and seek to protect and guarantee the rights of this target public. The municipality of Novo Hamburgo, in the southern Brazilian state of Rio Grande do Sul (RS), was chosen for being a central city in the Rio dos Sinos Valley and important in the metropolitan region of Porto Alegre. It was also the first in this region to implement a guardianship council, in 1992.

The question that has guided the research is: *how are public policies for children and young people implemented in the Guardianship Councils of Novo Hamburgo?* To answer this question, the article examines the relationship between public policies and the ECA, indicating what in fact the guardianship councils are and how the Novo Hamburgo Guardianship Councils discuss public policies in their everyday work and how they relate to other institutions responsible for implementing public policies for children and young people.

In order to do so, the article begins with a narrative review of the literature on the themes of public policies, the ECA, guardianship councils, institutions and the State. In addition, so as to compose the conceptual framework, an ethnographic exercise conducted at the headquarters of the Guardianship Councils in 2021 was also used, together with four non-directive interviews with counselors from the current administrations, two from Region 1 and two from Region 2.

### 1. Public policies and the ECA

This section investigates public policies anchored within the institution of the guardianship council, which originated from the ECA. The approach begins with a brief discussion on public policies, and then enters into their relationship with the aforementioned law. According to Schmidt (2018), public policy is a concept of the contemporary State, therefore, a recent manner of meeting the demands of society. Public policies are “[...] a tardy manner of taking care of what is public”<sup>3</sup> (SCHMIDT, 2018, p. 119), i.e., they are answers for solving political problems and result from political processes, and are therefore related to the culture of politics and society. And, when we talk about State:

It is a mistake to associate the State with the state apparatus, or the public sector, or the sum of the public bureaucracies, which are undoubtedly parts of the state, but do not however constitute the whole. The State is also, and no less primarily, a set of social relations that establishes a certain order in a given territory, and finally backs it up with a centralized coercive guarantee. (O’DONNELL, 1993, p. 64).

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3. This and all other non-English citations hereafter have been translated by the authors.

Here, the broad relationship between public policies and the State is affirmed, since:

In short, it is important and necessary for the State to face current poverty and social exclusion, as well as requiring the adequate functioning of the mechanisms of primary distribution derived from the economic functioning that produced them in the first instance. (SOJO, 2008, p. 44).

Borón is yet another author who also mentions the centrality of the State and raises discussions regarding democracy, an important point when considering public policies. However, according to Borón, “[...] democracy slowly lost its egalitarian core and has degenerated into a purely formal mechanism for the establishment and organization of political power” (BORON, 1994, p. 93).<sup>4</sup>

With these positions in mind, we turn our attention towards public policies that are inserted into a wide field of disputes, being, at times, the State and part of society positioned on opposite sides. Thus, we enter the discussion on public policies “from the top down” and “from the bottom up”. For DeLeon and DeLeon (2002, p. 477):

Rather than having a policy imposed by a policy maker who is counseled by select (hardly representative) and narrowly focused interest groups, the potential clientele are proposing a policy that will directly affect them. In short, implementing a bottom-up policy will tend to be more realistic and practical, in that it suggests that the vox populi have a great deal of say on where they are going and how they choose to arrive. Moreover, a bottom-up orientation will be more conducive to a democratic approach to the policy implementation process than will the top-down (or command) model.

Today, we observe that “[...] the place remains peripheral and is coadjutant for the population in the construction of citizenship. We confirm the character of the State’s strategic ‘anticipation’ when facing the processes of social organization and of routing social demands” (MARQUES, 2013, p. 24). The Brazilian population generally participates in federal, state and municipal elections, but does not directly formulate or assess public policies, which is one of the reasons why some of them are inefficient, inefficacious and ineffective.

Here we briefly reflect on why most public policies continue to be “from the top down”, and involve a huge participation of the State, and not of society, in their

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4. N.B. For direct citations, the English version was used of BORÓN, A. *State, Capitalism, and Democracy in Latin America*. Boulder, Colo. USA: Lynne Rienner Publishers, 1995.

formulations. If we observe the colonial period of Brazil, we notice that first the State was created, and then afterwards, Brazilian society was formed. Hence, the State created society through laws, decrees, land concessions, and so on.

Thus, the State and its institutions have centrality in the country, which is why there is a kind of “passive citizenship” (BENEVIDES, 1994). This context, in which the State has a strong influence, brought difficulties after the promulgation of the 1988 Constitution, since it delegated greater popular participation in order to formulate and control public policies. It was the 1988 Constitution, as we have seen, that paved the way for the promulgation of the ECA (BRAZIL, 1990), by means of a new law that gave greater emphasis to social participation in guaranteeing the rights of children and young people and in the municipalization of providing care, seeking a greater participation of society in its own construction of public policies for children and young people.

When it comes to public policies for this target public, it is essential that they reconsider the actions that they offer to children and young people, so that their rights may be guaranteed for food, clothing, housing, health, “[...] and achieve the necessary expressed development of care and protection, with a view to exercising a sense of social belonging, which begins in the stronghold of domestic coexistence” (VALENTE, 2013, p. 288). Today however,

[...] the neglect and indifference found in the public policies for poor young people are, therefore, not an exceptional event, but rather a major event that maintains links with the institutional policy culture; All changes of perspective must lead to changes in the policy culture. These, in turn, must be based on a detailed cartography of two political sentiments involved in the ideas and subjectivations present in political action. (NEDER, 2009, p. 88).

To address the case of Brazilian children and young people, the ECA stands as the central pivot (BRAZIL, 1990), because it is this document that defines the rights and duties of children and young people, as well as their comprehensive protection, and the municipalization of attending them, intermediated by the CMDCA and the CTs throughout the Brazilian territory. The aim of these two institutions, as established by law, is to implement the rights of children and young people at a municipal level, in an attempt to promote greater community and social participation in guaranteeing the rights of children and young people.

There are tensions and conflicts between Law No. 8,069 and part of society, since the law was created during Brazil’s redemocratization period, when society participated more actively in the discussions, both for the Constitution and the ECA.

However, the wording of both laws was down to the government, as well as their “fame”. According to Dias et al. (2014, p. 78),

[...] the government extinguishes the processes of political struggles in achieving rights, placing them as concessions of the State. When signing the referred to statute, President Fernando Collor made it a symbol of the modernization of Brazilian justice, thus becoming a “children’s savior”.

It should be highlighted that “the implementation of the ECA was consolidated through the creation of a system for guaranteeing rights that included councils, prosecutors, juvenile wards, defense offices, police stations, SOS, and assistance and care centers” (FALEIROS, 2005, p. 174). Therefore, the system for guaranteeing Brazilian rights will only become a reality when public policies for children and young people, linked and transversal, are put into action.

After 1990, various other public policies for children and young people came onto the scene, seeking to guarantee what the ECA foresaw. This came about as a result of the creation and/or restructuring of institutions. Here we do not understand the ECA itself as a public policy, but rather as a law proposed by the State to guarantee rights and duties and that require public policies to concretize what has been proposed. Thus, the guardianship councils spread throughout Brazil are part of the care network and of public policy actions for children and young people.

The main points of the ECA care assistance policy are: i) children and young people are subject to rights; ii) they have absolute priority of care assistance; iii) they should receive comprehensive protection; and iv) they have numerous rights guaranteed by law. The ECA focuses on the implementation, effectiveness, efficiency and efficacy of public policies for these subjects. Thus, the first lines of this document mention these public policies:

Art. 4 It is the duty of the family, the community, of society in general and of the public authorities to ensure, with absolute priority, the effectiveness of the rights relating to life, health, food, education, sports, leisure, and professionalization, culture, dignity, respect, freedom and family and community coexistence.

*Sole paragraph.* The guarantee of priority includes:

- a) the primacy to receive protection and help in any circumstance;
- b) precedence in being referred for public services or services of public relevance;
- c) preference in formulating and executing public social policies;
- d) privileged destination of public resources in areas related to the protection of children and young people. (BRASIL, 1990, p. 1).

When discussing ECA, we wish to contextualize the law that originated in the guardianship councils espoused by Brazil, and which are central institutions when referring to the rights of children and young people. The main task of these councils is to make referrals for this target public, as well as their families, to the care network, in other words, towards the care services for children and young people directly linked to the public policies that have been developed for them. Thus, we begin to understand the relationship between the guardianship council institution and public policies, since the first is unable to make the appropriate referrals without strong public policies in the municipality.

Despite this circle, which we specify here as a care network, there remains a great distance between what the ECA proposes and what is actually put into practice. For Grubba and Rodrigues (2012, p. 172):

One of the great contemporary myths is that human rights are assured when they have been recorded in a democratic constitution. The State of Western Law appears as the only guarantor of human rights. Their existence is a guarantee of the existence of democracy itself. This pseudo-relationship between human rights, the State of Law and liberal democracy omits the fact that the latter items also support the capitalist economic system, which in practice prevents the effectiveness of a large part of it. It even omits that the State of Bourgeois Law also guarantees the rights of capital and the exploration of labor.

In Brazil, in many cases, the written law ultimately has no guarantee or validity. Even today, most policies do not reach those who most need them – children and young people from the lower classes –, because their formulation has been based on a bourgeois rationality that demands attitudes and social behaviors, which fail to correspond to the social condition of a large part of the Brazilian population.

Next, we broaden the discussion on the ECA, guided by an institution which was based on it: the guardianship council.

## 2. Institutions and guardianship councils

This section focuses on the guardianship councils, institutions that make part of the children and young people's care network. However, they differ from the vast majority of the others since their main goal is to refer children, young people and families for care services in specialized institutions. They are, therefore, the "gateway" to the care service, and for this reason they are essential to the public policies for children and young people.



In the previous section, mention was made of the force of the State within Brazil, due to laws, decrees and institutions that support it. Díaz (2007, p. 138) cites Alayala Espino (1996), who

[...] defines the State as an organization that plays a crucial role in the design, creation and maintenance of public and private institutions, which set the rules of the game for interchange. The author also states that these institutions are important for how the economic, political, social and cultural systems perform and, naturally, for the State itself.

According to Douglas (1998), each context has its own line of thought, always linked to the needs of the ruling class. Multiple and contradictory versions are silenced. Douglas also emphasized that the institutions think, and very often they think for us. According to her, “Institutional organization is now widely treated as a way of solving problems arising from bounded rationality.”<sup>5</sup> (DOUGLAS, 1998, p. 57).

Institutions are created as a way of meeting the needs of the elite of the period and are normally legitimized by laws and by the force of the State. In the case of Brazilian children and young people, the laws, particularly the ECA, were formulated by anchoring the rights of children and young people to the international heritage that originated in Western Europe. Hence, the United Nations Organization (UN), the United Nations Children’s Fund (UNICEF) and its declarations and conventions formed the basis of the ECA.

In order to be maintained, the institutions need to be of use within society, according to Western rationale. Today, they confer uniformity to a heterogeneous group of individuals and present qualities of similarity and of establishing norms and rules, defining the role of each one in society (DOUGLAS, 1998).

According to Douglas (1998), we understand the force of the institutions, but we also understand that the agents that act within them interweave maneuvers and make choices. In other words, the institution is not made in isolation, because it depends on the individuals who are in contact with it. Thus, Berger and Luckmann (1985) indicate that while some institutions have become crystallized within our society, almost inalterable, institutionalization is never irreversible. The authors emphasize this by believing that the institutions are both built by agents and used by agents and within them there is the capacity for mobility.

The mobility highlighted by Douglas (1998) and by Berger and Luckmann (1985) is central, now that we turn our gaze to the guardianship councils, because,

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5. N.B. For direct citations, the English version was used of DOUGLAS, M. *How Institutions Think*. Syracuse, New York. Syracuse University Press, (1995, p.57).

as will become apparent, in this institution there are different ways of working, without causing drastic changes, but through different strategies, negotiations and conflicts seeking to guarantee the rights of children and young people.

When considering the mobility of the agents of the institutions, it is possible to reflect upon the guardianship counselors as negotiators and strategists. Ribeiro (1998) presented part of her extensive research on the Guardianship Council of Porto Alegre (RS) when the institution was just beginning, in 1992, and stated that

[...] the CT has been inserted into the construction process of the social problem of children and young people through a group of agents whose [...] profile is found in disputes, and in the practice, they have “specialized” in the craft of negotiators both in the dispositions of the ECA and in their own conceptions in facing a demanding population. (RIBEIRO, 1998, p. 105).

However, ultimately, what is a guardianship council? Article 131 of the ECA presents the following definition: “[...] a permanent, autonomous body, with no jurisdiction, charged by society to ensure that the rights of children and young people, as defined by this Law, are fulfilled.” (BRASIL, 1990, p. 32). Although they are linked to the municipal administrations, there is no hierarchically higher entity above them. It is only the judiciary that may review any of the council’s decisions.

Each municipality must have at least one guardianship council for every 100,000 inhabitants (BRASIL, 1990). Currently, elections are held every four years, in which five guardianship councilors are elected onto each council. Each municipality defines its prerequisites for candidacy. One fundamental requirement is to have lived for at least two years in the city where they intend to work and develop projects with children and young people.

Despite the fact that the headquarters of the guardianship councils is closed at night and during the early hours of the morning, there are always councilors on duty to attend to the municipalities, regardless of the time. Some of the attributions of the guardianship councils are described as follows (BRASIL, 1990, p. 32):

- I – to attend children and young people within the hypotheses provided for in Arts. 98 and 105, applying the measures provided for in Art. 101, I to VII;
- II – to attend and provide counselling for parents or guardians, applying the measures provided for in Art. 129, I to VII;
- III – to promote the execution of their decisions, thus being able: a) to request public services in the areas of health, education, social services, social security, work and safety; b) to represent, together with the judicial authority, in cases of unjustified non-compliance with their deliberations.

- IV – to inform the Public Prosecutor’s Office of any facts that constitute an administrative or criminal offense against the rights of children or young people;
- V – to inform the judicial authority of the cases within its competence;
- VI – to organize and provide the measure established by the judicial authority, among those provided for in Art. 101, from I to VI, for the young perpetrator of the infraction; [...]
- IX – to assist the local Executive Power in elaborating the budget proposal for plans and programs that serve the rights of children and young people [...].

Here we highlight the functions defined by law, although, as mentioned in the previous section of this study, if we were to summarize the work of the guardianship counselors, it may be stated that they refer children, young people and their families to the care network, which is composed of several institutions, many of them created by national, state and municipal public policies. Almost all the entities are linked to the government at some level or another. Therefore, public policies permeate these entities on a daily basis.

These institutions are also responsible for providing data and experience in order to formulate public policies related to children and young people and for monitoring services and the effectiveness of such policies (BRASIL, 1990). Guardianship councils need to establish interfaces between health, assistance, education, justice and all other areas that cover these subjects. Therefore, the role of the councils is “to unite forces to reverse the dynamics of social policies that work more as reproducers of inequality” (SOUZA NETO, 2006, p. 187).

Guardianship councils, as well as the CMDCAs, should be viewed as a democratic space in which society may dialogue on issues related to children and young people, although, in reality, based on the examples of the guardianship councils in Novo Hamburgo, we have confirmed that this does not occur. The councils should promote community mobilization for their causes, indicate problems in carrying out activities with the CMDCA and ensure that the rights of children and young people are respected (KAMINSKI, 2001) – i.e., also think about formulating public policies aimed at this group.

Next, we examine the daily work of the Guardianship Councils in Novo Hamburgo to obtain a better understanding of this space and the way in which public policies are implemented within it. It is important to highlight that, although we focus on one city, the guardianship councils across Brazil have a similar structure, and must all follow the ECA. Therefore, we should bear in mind the strength of this institution on a national level.

### 3. Public policies for children and young people: a viewpoint from the guardianship councils in Novo Hamburgo

Novo Hamburgo, located in the Rio dos Sinos Valley, is part of the Metropolitan Region of Porto Alegre, the state capital of Rio Grande do Sul. With an area of 223 km<sup>2</sup> and a population estimated in 2019 by the Brazilian Institute of Geography and Statistics (IBGE) of 246,748, in 2010, the education rate in the municipality for 6 to 14 years was around 97% (IBGE, 2019), and the population aged between 5 and 19 years was 56,580 (FEE, 2016).

The Guardianship Councils in Novo Hamburgo Region 1 and Novo Hamburgo Region 2 have been operating since 2005, with a joint headquarters currently installed in the Casa da Cidadania building. The headquarters occupies an entire floor, has an excellent structure and central location, with easy access for the population from all neighborhoods, since it is close to “Paradão”, the arrival and departure bus station that serves several buses that circulate throughout the city. It is also close to a train station, which connects several municipalities in the Metropolitan Region of Porto Alegre. The Region 1 Council currently has five female guardianship counselors, and the Region 2 Council has four female counselors and one male counselor.

Below we address the participant observation at the headquarters of the councils and the non-directive interviews with four councilors from the current management. The monitoring of counselors Azaleia, Margarida, Hortênsia and Tulipa<sup>6</sup> took place over a period of one month, during 2021, a period in which Covid-19 was a constant theme.

Observation tools and interviews are part of the ethnographic method, which is linked to anthropology. According to Roberto Cardoso de Oliveira (1996, p. 15), the ethnographic exercise of participant observation is anchored onto three central points: looking, listening and writing. According to Oliveira, “perhaps the first experience of the field researcher – or in the field – is in the theoretical domestication of the way he/she looks”. After looking, there is listening, although in reality, both go together. For Oliveira (1996), listening, both in the interview and in participant observation, is an essential moment, and it should be noted that: it is necessary to know how to listen and ask questions. Lastly, there is writing, since this is the stage in which “the issue of knowledge becomes as or more critical” (OLIVEIRA, 1996, p. 22). In reality, therefore, the three stages go hand in hand.

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6. The names of the councillors have been replaced with names of flowers to protect their identity. The interviews and the ethnographic exercise took place at the headquarters of two councils authorized by the participants, following the ethical standards of research.

As Beaud and Weber (2007, p. 32) indicated, “research works according to the norm of reciprocity, with the pleasure of providing a service, with the rules of the game of personal relationships”. It is necessary to understand that, while observing, the researcher is also observed and is transformed as a result of the relationships she/he establishes and what she/he learns at the research site.

Since the beginning of the pandemic, at the beginning of 2020, new measures have been adopted. The main ones were: i) fewer employees at the headquarters; ii) fewer families attended in person; and iii) fewer home visits by counselors. On the other hand, the demand by telephone and WhatsApp and network and micro-network meetings have increased, and there has also been an intensification in psychological wear and tear due to the virus.

The stipulated number of counselors at the headquarters is four per day: two from Region 1 and two from Region 2, whereby one is the on-call person, and the other is the support. The headquarters is open from 8 am to 5 pm, but, as previously mentioned, there is always an advisor on call for the entire city.

The cases dealt with by the guardianship counselors are extremely varied, ranging from the difficulties encountered by children and/or young people to follow school activities through to situations of sexual violence. When the case reaches these professionals, via email, telephone or in person, they seek to dialogue with the family. It is rare for children and young people to be heard separately, since every care is taken not to subject them to excessive exposure to traumatic events.

By observing the day-to-day activities of the four counselors, we realized that each case is different from the other, and that each counselor is unique. In other words, even though their actions are guided by the ECA, they do not all act in the same way. Naturally, they do so within the law, motivated by the desire to guarantee the rights of children and young people provided for by law, but they do not always follow the same paths. These are the spaces for maneuver that Douglas (1998) and Berger and Luckmann (1985) alerted us to. Something Azalea said illustrates this statement:

You can't just be a legalist to work on the guardianship council. You need to observe with sensitivity. If you don't do that, you'll do your job, but the truth is that the family won't comply, because they have no conditions to do so. And if I take things literally and see that the family is not complying with what I asked for and I accept it, I will be violating rights. (Azaleia, 2021).

Some cases are considered more complex, such as sexual abuse, physical aggression and the removal of children from the family. In these situations,

counselors do not make decisions in isolation. These issues are always defined in the collegiate body, i.e., among colleagues from the same region in order to encompass different viewpoints, so that counselors are sure that the right decision is being made. We should emphasize that, on the occasions when more counselors participate in decision-making, they all sign the referral documents together. It is understood, therefore, that it is the guardianship council that is determining what happens next, and not just the counselor.

During the monitoring period of the counselors, the most cited network institutions were the Referral Center for Social Assistance (CRAS), the Specialized Referral Center for Social Assistance (CREAS), schools, health clinics, shelters, the Center for Psychosocial Care (Caps), the CMDCA and the Psychosocial Care Center for Children (CAPS I). Most institutions in the care network were created and are maintained by state public policies and are central to the functioning of guardianship councils. With regard to the relationship with the other institutions in the network, the monitored counselors highlighted that they try to act on the basis of dialogue in search of partnerships, but that they also use their power as guardianship counselors to ensure that the institutions fulfil their duties.

When asked in an interview whether the care network was sufficient, the four counselors responded similarly: “No, the network is very weak when compared to the demands we are face with” (Margarida, 2021). Another counselor from the current management, also questioned in this regard, emphasized:

I don't think it will ever be enough [...]. Even if our network has a significant increase in hiring professionals, if CRAI<sup>7</sup> is implemented and we have policies that are better tailored and focused on children and adolescents, I don't think it will ever be enough. Something will always be missing, maybe because no more demands will come in, because we can't pay enough attention. I think that the network as a whole is somewhat blind. Of course, a situation will come in and we will look at it, but if the situation is not formalized, we will not go after it either, because we just don't have the legs. The network does not have the legs to embrace a situation that has not yet become chaotic. I know a lot about the technicians in our municipality and I understand that they are trained and are not slackers, people have the desire to make a difference and are dedicated to the cases they take on, but they can't keep up with them. The demand is much greater than what the municipality can offer as a service. (Tulipa, 2021).

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7. Referral Centre for the Care of Children and Young People.

This statement by the guardianship counselor was filled with sadness and fatigue because of the current situation. They are unable to handle so many service requests, as is the network, and the requests just keep returning to them. Azaleia spoke about being a counselor during the pandemic:

First, not having people here to attend, second the lack of a network during this period, which caused a great deal of work overload for me. The Cras and Creas closed and were only running a virtual service and we know how exclusive this is. Families have no access, so we suffered a lot here with the pandemic, because people started to access the guardianship council much more, since the network was not responding and with requests due to hunger, since they needed food. The pandemic brought a very cruel reality that families are just having to face. This, plus the fear of catching COVID, added to our emotional limiters, because there is no one who hasn't been impacted in some way. (Azaleia, 2021).

Here we have a complex overview of the day-to-day work of the counselors. We have examined a number of points related to public policies aimed at children and young people, and below we will see more. Margarida mentioned that “there is an article in the ECA that talks about our responsibility in relation to thinking about public policies; the problem is that we don't have the legs for it. This year, people were called on to discuss public policies, but it is not a demand that we are able to act on” (Margarida, 2021).

During the participant observation period, the researcher accompanied the counselors on home visits, in consultations at the council headquarters, in online micro-network meetings, in case discussions between counselors and in more bureaucratic activities at the headquarters, such as responding to official letters and completing the Guardianship Council System, an online system in which the data of all attendances must be included.

On these occasions, while it is not common for the expression “public policies” to appear directly, it is always present in conversations, such as, for example, when checking to which network institution a particular case should be referred; when the need arises for an institution with specific characteristics, the greater insertion of young people in the job market; when schools offer after-hours activities; when receiving these children and young people by other institutions; for greater efficiency and speed in the network's handling of rape cases, and so on. These discussions may already be understood as an indication of the need for new public policies and the reformulation of those that exist.

However, the councilors of Novo Hamburgo do not specifically address the issue of public policies. Why? Margarida (2021) has already highlighted the impossibility that she sees of acting more in the area of such policies because the counselors have endless demands for cases, which does not give them time to think about policies. Participant observation confirmed Margarida's statement, but, in addition, we believe that there is also a lack of space for this discussion, which was also picked up throughout the ethnographic exercise.

When we talk about a space for the discussion of public policies, the counselors indicated the CMDCA as one of these places, since it performs four central functions: i) a deliberative function, i.e., it is up to the CMDCA to make certain decisions on issues that will be sent to the executive; ii) a consultative function, therefore, it helps society and the government, when consulted; iii) a fiscal function, when the Board supervises compliance with rules that it deliberated; and, iv) a mobilizing function, i.e., when the CMDCA acts in the connection between the government and society, seeking to promote greater social participation (FUNDAÇÃO ABRINQ, 2015). Therefore, this would be a space in which the male counselor and the female counselors could promote reflections on public policies. With regard to this, Tulipa highlighted:

So, I've been here for a year and a half and we have identified this and held collegiate meetings to take this to the CMDCA, but I have never, at any moment, received a specific invitation to exchange ideas and think about building a policy for target public x. I think that the meetings we have with the CMDCA are a way for us to be there in network dialogue. I think that the monthly network meetings that take place in the municipality are a way of identifying what is lacking in the territories, of being able to be the eyes and bring in the needs. I do think we participate, maybe not so directly. For example, the need for a non-compulsory hospitalization space for adolescents was identified. From there, the network became active, a working group was set up and we have been making movements so that there is the possibility of placing young people on the Senhor Jesus Farm on a voluntary basis. I think this is participating in the construction of public policies. Maybe the construction doesn't happen the way I have in my imagination, but it does happen. (Tulipa, 2021).

And which public policies for children and young people do the guardianship counselors view as being necessary for the municipality?

In general terms, for both children and adolescents, there is a lack of public prevention policies. In the sense that the network should have continuous training, the guardianship council should have continuous training, because I know how important this is. And I



emphasize in relation to young people: we have nothing to offer them. There are no vacancies for young apprentices, we don't have anything to offer, which is really bad. And I feel that over the last few years many rights have been lost (Azaleia, 2021).

One of the observations on which much was spoken concerns the “calling” of the streets. The counselors having nothing to offer so that the young people and children do not make this choice, given the fact that there is, for example, no space for leisure, entertainment or sports for these subjects to attend after school, nor even professional spaces. And with the streets come drugs, robbery, absenteeism from school, and so on.

In a municipality with well-structured public policies for children and young people, the care network would be strong, and it would be easier for the guardianship councils to act. This is because, if a family comes to the guardianship council with a specific difficulty and the network has a public policy capable of solving it, in order to promote the development of work to help that family, they will not need to return. However, what in fact happens is that children and young people return because they are not linked into the network, because it is insufficient. The counselors exposed this both in their statements in the interviews and in their daily lives. Here, they are not taking a stand against agents who work in other institutions within the network, but rather, are demanding improvements in the service structure supported by more effective public policies.

Here, once again, the “top-down” and “bottom-up” policies come into discussion (DELEON; DELEON, 2002). We understand that the ECA, despite having had popular participation in its creation, was promulgated by the State and contributing a notion of childhood and young people that did not correspond to the reality of a large part of the Brazilian population. With regard to the Novo Hamburgo Guardianship Councils, they should in fact be a space for the discussion of public policies in which the public authorities could listen to the agents, since they are the ones who really know the social reality. This would be a place where the population could take their contributions in order to consider such policies. However, this is not what occurs. For this reason, we have “top-down” policies.

To illustrate the lack of community participation within the Novo Hamburgo councils, we reproduce this statement by Hortênsia (2021):

[...] I see that, the closer we get to the community, there is more fear than understanding with regard to what the service is for. And I don't know if that's a good thing or a bad thing, I'm just being sincere in telling you that. The moment they feel that the council is an inspection body of the State, they have the notion that they have

to do it. [...] When the community sees us as law, that's how it is. We have this approximation part, but we cannot let it get in the way of the applicability of what the law says.

Other statements corroborate that of this counselor, highlighting the community's lack of knowledge regarding the work developed by the Guardianship Councils Region 1 and 2. Moreover, this leads to distancing and, not infrequently, to an understanding, by the community, that the "guardianship council does nothing". In addition, counselors also come into conflict with families during consultations, which makes the relationship even more difficult.

Here we may return to discussing passive citizenship (BENEVIDES, 1994). As previously emphasized, although the 1988 Constitution and the ECA have emphasized the participation of the community in elaborating public policies, in reality, this does not occur, because there is no space for this discussion. The councils themselves, which should have this characteristic, remain at a distance from the community. The guardianship counselors have no effective participation in either the discussion, the monitoring or the assessment of these policies.

To finalize, it is important to mention that the Guardianship Council System has been in operation since 2018. It enables the production of reports by types of cases, age group, location, and period, among other factors. At the moment, it is still undergoing implementation with the male counselor and the current female counselors of Novo Hamburgo, but it is expected that, in future years, it will be a source of several research studies and will serve as a basis for discussion on public policies for children and young people in the municipality.

#### 4. By way of conclusion

Throughout the article we have addressed public policies and their relationship with the Statute of the Child and Adolescent, considered central in promoting and guaranteeing rights for Brazilian children and young people, within a context of instituting the democratic State after the end of the civil-military dictatorship.

With regard to the ECA, we have specifically focused on the guardianship councils, since they are institutions created with the objective of protecting and guaranteeing the rights provided for by Law No. 8,069 (BRASIL, 1990). We consider the councils to be the gateway for children and young people whose rights have either been violated or threatened. It is also through the councils that they are referred through to other institutions in the care network intrinsically related to public policies.

Here we return to the central question: “How are public policies for children and young people implemented in the selected guardianship councils?”. They are mainly implemented through the day-to-day care of professionals when they refer children, young people and family members to other institutions in the care network, which seek to guarantee the rights established in the ECA.

The guardianship councils, not only those in Novo Hamburgo, but throughout Brazil, need effective, efficient and efficacious public policies for the proper referral of children, young people and family members to the functioning of an institutional care network, in which the councils have a fundamental position, as they initiate the flow of care. The stronger the public policies, the easier and better the work of the guardianship councils and the lives of the children and the young people they serve will become.

In the ECA itself, the centrality of the councils may be observed in order to reflect upon the public policies aimed at children and young people. While they are not responsible for formulating and executing them, they must be central to the vision of the needs of children and young people in the cities in which they operate. In Novo Hamburgo, we realize that this dialogue does not occur in the expected manner and intensity, because the guardianship counselors need more space for discussion and more time to work, since, as Margarida (2021) highlighted, they are always “fighting a losing battle”.

When she mentioned this, the counselor was referring to cases that reach the guardianship councils of Novo Hamburgo, when rights have already been violated. Therefore, they try to prevent the violation from happening again, which highlights the importance of public prevention policies. Especially since we believe that, with more of these policies, there would be fewer violations of the rights of children and young people. Thus, counselors would have space in their daily lives to organize study groups with the purpose of discussing public policies and bringing them closer to the reality of the communities.

We cannot fail to point out, however, how difficult it is for public policies aimed at children and young people to present efficiency, effectiveness and efficacy, since they are formulated “from the top down” (DELEON; DELEON, 2002), so that ultimately, they do not meet the reality of the children and young people in Novo Hamburgo. Furthermore, although the ECA cites greater community participation, through the guardianship councils and CMDCAs, in practice, this does not happen, at least not in the municipality in focus. For this reason, we recall the concept of passive citizenship (BENEVIDES, 1994) and the remaining peripheral place of the population in the construction of public policies (MARQUES, 2013).

At the moment, we reaffirm the importance of the guardianship councils spread throughout Brazil as institutions that are part of the care network, and that seek to protect Brazilian children and young people, and the centrality that they take on when we discuss public policies for children and young people, which need to receive more investment and to be considered by those who enjoy this service on a daily basis, both the agents and the community.

In addition, it is important to consider public policies for children and young people not only with a view towards the children and young people, but also their families. Such policies need to be increasingly integrated and strengthened by the care network, which encompasses the family itself, the community, educational institutions, health institutions, social assistance, leisure, culture, housing, justice, professionalization and even public security institutions. This integration is essential in order to guarantee the rights of Brazilian children and young people. And, who knows, so that, in the future, guardianship counselors will not only have to “fight a losing battle”.

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